

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CIV 09-706 BB/LFG

\$42,935.00 IN UNITED STATES CURRENCY,

Defendant

DEIDRA BROWN,

Claimant.

MEMORANDUM OPINION
SUPPORTING SUMMARY JUDGMENT

THIS MATTER is before the Court on the *Motion* of Plaintiff United States for summary judgment [doc. 22]. Claimant Deidra Brown has failed to file a response and based on the undisputed facts stated in Plaintiff's brief, the *Motion* should be Granted.

Discussion

Pursuant to Local Rule D.N.M.LR-Civ. 7.1(b), Claimant Brown's failure to file and serve a response to Plaintiff's motion may constitute consent to grant the motion. Claimant's failure to respond to the motion prevents Claimant from challenging Plaintiff's assertion of facts. Without any genuine issue of material fact, Plaintiff is

entitled to judgment as a matter of law as to Claimant's claim to the defendant currency in this forfeiture case. Fed. R. Civ. P. 56(c).

Under 21 U.S.C. § 881(a)(6), the following property is subject to forfeiture to the United States:

All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, securities used or intended to be used to facilitate any violation of this subchapter.

United States v. \$242,484.00, 389 F.3d 1149 (11th Cir. 2004); *see also United States v. \$149,442.43 in U.S. Currency*, 965 F.2d 868, 876-77 (10th Cir. 1992). The government need not trace the property to a specific drug transaction but must demonstrate only that the property more likely than not was related to some illegal drug transaction. 389 F.3d at 1160.

In this case, the totality of the undisputed facts give rise to the inescapable conclusion that the defendant currency constituted illegal drug proceeds and should be forfeited.



BRUCE D. BLACK
United States District Judge